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6 Hysteric Glamour USA Inc. and
Ozone Community Corporation dba
7 "Hysteric Glamour"

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9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 DAVID WEISMAN, an individual;
13
Plaintiff,

14 v.

15 SANRIO FAR EAST COMPANY, a
16 Japanese corporation; HYSTERIC
GLAMOUR, a Japanese corporation;
17 HYSTERIC GLAMOUR USA, a
California corporation, MICHAEL
18 POST, an individual, and DOES 1
through 10, inclusive,

19
20 Defendants.

Case No. LA CV 11-6033 GW (JLx)

**ANSWER OF DEFENDANTS
HYSTERIC GLAMOUR USA INC.
AND OZONE COMMUNITY
CORPORATION dba HYSTERIC
GLAMOUR**

1 Defendants Hysteric Glamour USA Inc. and Ozone Community Corporation
2 dba Hysteric Glamour (collectively “the Hysteric Glamour Defendants”), for
3 themselves and for no other parties herein, in response to the Complaint of plaintiff
4 David Weisman, answer as follows:

5 1. Answering Paragraph 1, the Hysteric Glamour Defendants admit that
6 the Complaint purports to allege that jurisdiction is proper; except as otherwise
7 admitted, the Hysteric Glamour Defendants specifically deny the remaining
8 allegations contained therein.

9 2. Answering Paragraph 2, the Hysteric Glamour Defendants admit that
10 the Complaint purports to allege that jurisdiction is proper; except as otherwise
11 admitted, the Hysteric Glamour Defendants specifically deny the remaining
12 allegations contained therein.

13 3. Answering Paragraph 3, the Hysteric Glamour Defendants admit that
14 the Complaint purports to allege that venue is proper; except as otherwise admitted,
15 the Hysteric Glamour Defendants specifically deny the remaining allegations
16 contained therein.

17 4. Answering Paragraph 4, the Hysteric Glamour Defendants lack
18 knowledge or information sufficient to form a belief as to the truth of the allegations
19 contained therein, and therefore deny each and every allegation contained therein.

20 5. Answering Paragraph 5, the Hysteric Glamour Defendants lack
21 knowledge or information sufficient to form a belief as to the truth of the allegations
22 contained therein, and therefore deny each and every allegation contained therein.

23 6. Answering Paragraph 6, the Hysteric Glamour Defendants lack
24 knowledge or information sufficient to form a belief as to the truth of the allegations
25 contained therein, and therefore deny each and every allegation contained therein.

26 7. Answering Paragraph 7, the Hysteric Glamour Defendants deny each
27 and every allegation contained therein.
28

1 8. Answering Paragraph 8, the Hysteric Glamour Defendants admit the
2 allegations contained therein.

3 9. Answering Paragraph 9, the Hysteric Glamour Defendants admit that
4 representatives of Hysteric Glamour USA Inc. negotiated and reached a license
5 agreement with Plaintiff; except as otherwise admitted, the Hysteric Glamour
6 Defendants specifically deny the remaining allegations contained therein.

7 10. Answering Paragraph 10, the Hysteric Glamour Defendants admit that
8 defendant Hysteric Glamour USA Inc. is an agent of defendant Ozone Community
9 Corporation and is doing business in the State of California; except as otherwise
10 admitted, the Hysteric Glamour Defendants specifically deny the remaining
11 allegations contained therein.

12 11. Answering Paragraph 11, the Hysteric Glamour Defendants lack
13 knowledge or information sufficient to form a belief as to the truth of the allegations
14 contained therein, and therefore deny each and every allegation contained therein.

15 12. Answering Paragraph 12, the Hysteric Glamour Defendants admit that
16 Edie Sedgwick starred in the film entitled "Ciao! Manhattan" and is deceased;
17 except as otherwise admitted, the Hysteric Glamour Defendants lack knowledge or
18 information sufficient to form a belief as to the truth of the remaining allegations
19 contained therein, and therefore deny the remaining allegations contained therein.

20 13. Answering Paragraph 13, the Hysteric Glamour Defendants lack
21 knowledge or information sufficient to form a belief as to the truth of the allegations
22 contained therein, and therefore deny each and every allegation contained therein.

23 14. Answering Paragraph 14, the Hysteric Glamour Defendants lack
24 knowledge or information sufficient to form a belief as to the truth of the allegations
25 contained therein, and therefore deny each and every allegation contained therein.

26 15. Answering Paragraph 15, the Hysteric Glamour Defendants admit that
27 a copy of a document is attached as Exhibit A and that such document speaks for
28 itself; except as otherwise admitted, the Hysteric Glamour Defendants lack
knowledge or information sufficient to form a belief as to the truth of the remaining

1 allegations contained therein, and therefore deny the remaining allegations
2 contained therein.

3 16. Answering Paragraph 16, the Hysteric Glamour Defendants lack
4 knowledge or information sufficient to form a belief as to the truth of the allegations
5 contained therein, and therefore deny each and every allegation contained therein.

6 17. Answering Paragraph 17, the Hysteric Glamour Defendants lack
7 knowledge or information sufficient to form a belief as to the truth of the allegations
8 contained therein, and therefore deny each and every allegation contained therein.

9 18. Answering Paragraph 18, the Hysteric Glamour Defendants admit that
10 defendant Sanrio is the agent for a third party that entered into a license agreement
11 with Ozone Community Corporation regarding the use of certain names, symbols,
12 designs, logos, artwork, copyrights, trade dress and trademarks on articles of
13 merchandise; except as otherwise admitted, the Hysteric Glamour Defendants deny
14 the remaining allegations contained therein.

15 19. Answering Paragraph 19, the Hysteric Glamour Defendants deny each
16 and every allegation contained therein.

17 20. Answering Paragraph 20, the Hysteric Glamour Defendants admit that
18 representatives of defendant Hysteric Glamour USA Inc. contacted plaintiff,
19 negotiated and reached a license agreement with plaintiff, and sent plaintiff the first
20 payment pursuant to such license agreement; except as otherwise admitted, the
21 Hysteric Glamour Defendants deny the remaining allegations contained therein.

22 21. Answering Paragraph 21, the Hysteric Glamour Defendants deny each
23 and every allegation contained therein.

24 22. Answering Paragraph 22, the Hysteric Glamour Defendants lack
25 knowledge or information sufficient to form a belief as to the truth of the allegations
26 contained therein, and therefore deny each and every allegation contained therein.

27 23. Answering Paragraph 23, the Hysteric Glamour Defendants incorporate
28 by reference their responses set forth in paragraphs 1 through 22 above.

1 24. Answering Paragraph 24, the Hysteric Glamour Defendants lack
2 knowledge or information sufficient to form a belief as to the truth of the allegations
3 contained therein, and therefore deny each and every allegation contained therein.

4 25. Answering Paragraph 25, the Hysteric Glamour Defendants admit that
5 a copy of a document is attached as Exhibit B and that such document speaks for
6 itself; except as otherwise admitted, the Hysteric Glamour Defendants lack
7 knowledge or information sufficient to form a belief as to the truth of the remaining
8 allegations contained therein, and therefore deny the remaining allegations
9 contained therein.

10 26. Answering Paragraph 26, the Hysteric Glamour Defendants lack
11 knowledge or information sufficient to form a belief as to the truth of the allegations
12 contained therein, and therefore deny each and every allegation contained therein.

13 27. Answering Paragraph 27, the Hysteric Glamour Defendants deny each
14 and every allegation contained therein.

15 28. Answering Paragraph 28, the Hysteric Glamour Defendants deny each
16 and every allegation contained therein.

17 29. Answering Paragraph 29, the Hysteric Glamour Defendants deny each
18 and every allegation contained therein.

19 30. Answering Paragraph 30, the Hysteric Glamour Defendants incorporate
20 by reference their responses set forth in paragraphs 1 through 29 above.

21 31. Answering Paragraph 31, the Hysteric Glamour Defendants deny each
22 and every allegation contained therein.

23 32. Answering Paragraph 32, the Hysteric Glamour Defendants incorporate
24 by reference their responses set forth in paragraphs 1 through 31 above.

25 33. Answering Paragraph 33, the Hysteric Glamour Defendants lack
26 knowledge or information sufficient to form a belief as to the truth of the allegations
27 contained therein, and therefore deny each and every allegation contained therein.
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1 34. Answering Paragraph 34, the Hysteric Glamour Defendants deny each
2 and every allegation contained therein.

3 35. Answering Paragraph 35, the Hysteric Glamour Defendants deny each
4 and every allegation contained therein.

5 36. Answering Paragraph 36, the Hysteric Glamour Defendants deny each
6 and every allegation contained therein.

7 37. Answering Paragraph 37, the Hysteric Glamour Defendants deny each
8 and every allegation contained therein.

9 38. Answering Paragraph 38, the Hysteric Glamour Defendants incorporate
10 by reference their responses set forth in paragraphs 1 through 37 above.

11 39. Answering Paragraph 39, the Hysteric Glamour Defendants lack
12 knowledge or information sufficient to form a belief as to the truth of the allegations
13 contained therein, and therefore deny each and every allegation contained therein.

14 40. Answering Paragraph 40, the Hysteric Glamour Defendants deny that
15 they have used, and continue to use, the name and image of Edith Sedgwick without
16 regard for plaintiff's rights; the Hysteric Glamour Defendants lack knowledge or
17 information sufficient to form a belief as to the truth of the remaining allegations
18 contained therein, and therefore deny each and every allegation contained therein.

19 41. Answering Paragraph 41, the Hysteric Glamour Defendants lack
20 knowledge or information sufficient to form a belief as to the truth of the allegations
21 contained therein, and therefore deny each and every allegation contained therein.

22
23 **AS AND FOR AFFIRMATIVE DEFENSES, the Hysteric Glamour**
24 **Defendants allege as follows:**

25
26 **FIRST AFFIRMATIVE DEFENSE**

27 1. Each and every claim for relief and/or cause of action alleged in the
28 Complaint fails to state a claim upon which relief can be granted by this Court.

1 **SECOND AFFIRMATIVE DEFENSE**

2 2. The Complaint, as well as each and every alleged claim for relief
3 therein, is barred by plaintiff's consent to the alleged acts and omissions.

4 **THIRD AFFIRMATIVE DEFENSE**

5 3. Plaintiff is barred from recovering on any of the claims for relief and/or
6 causes of action set forth in the Complaint under the doctrine of waiver.

7 **FOURTH AFFIRMATIVE DEFENSE**

8 4. Plaintiff is barred from recovering on any of his claims for relief and/or
9 causes of action set forth in the Complaint under the doctrine of estoppel.

10 **FIFTH AFFIRMATIVE DEFENSE**

11 5. Plaintiff has unreasonably delayed in asserting his claims and/or causes
12 of action and therefore is barred by the doctrine of laches from seeking any relief.

13 **SIXTH AFFIRMATIVE DEFENSE**

14 6. The Hysteric Glamour Defendants performed all obligations to
15 plaintiff, except to the extent that performance was prevented or excused by the
16 conduct of plaintiff and plaintiff's representatives.

17 **SEVENTH AFFIRMATIVE DEFENSE**

18 7. Plaintiff is guilty of unclean hands with respect to the transactions at
19 issue in the Complaint and, therefore, is barred from obtaining, and is not entitled to,
20 the relief sought, or any relief whatever.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 8. Plaintiff is barred from recovering on some or all of the purported
23 claims for relief because of plaintiff's breach of the implied covenant of good faith
24 and fair dealing.

25 **NINTH AFFIRMATIVE DEFENSE**

26 9. The Complaint, as well as each and every alleged claim for relief
27 therein, is barred by plaintiff's breach of contract.
28

TENTH AFFIRMATIVE DEFENSE

10. Plaintiff granted a nonexclusive license to the Hysteric Glamour Defendants to use certain photographs that bars Plaintiff from recovering on some or all of the purported claims for relief.

The Hysteric Glamour Defendants reserve the right to amend this answer, to assert additional affirmative defenses, and to supplement, alter, or change this answer upon discovery and investigation in this matter.

WHEREFORE, the Hysteric Glamour Defendants pray that Plaintiff take nothing by reason of his Complaint, for attorneys' fees and costs of suit incurred herein, and for such other and further relief as this Court may deem just and proper.

DATED: September 14, 2011

JAMES D. KOZMOR, INC.

By



James D. Kozmor

Attorneys for Defendants Hysteric Glamour
USA Inc. and Ozone Community Corporation
dba "Hysteric Glamour"